

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

RUBEN J. ESCANO,	§	
	§	
Plaintiff,	§	
	§	2:22-CV-00360-DHU-GJF
vs.	§	
	§	
RCI, LLC, <i>et al.</i>	§	
	§	
Defendants.	§	

**MOTION TO SEAL DEPOSITION TRANSCRIPT OF CRYSTIAN ALATORRE**

Pursuant to D.N.M.LR-Civ. 7, Defendant RCI, LLC (“RCI”), through undersigned counsel, hereby submits this Motion to Seal Deposition Transcript of Crystian Alatorre, and, in support, states as follows:

1. On March 19, 2024, pursuant to the Court’s order of March 1, 2024, Plaintiff Ruben Escano (“Plaintiff”) deposed Crystian Alatorre as a corporate representative of RCI.
2. During his deposition, Mr. Alatorre testified about various confidential matters, including but not limited to RCI’s confidential operational and business development practices, financial details relating to RCI’s affiliate agreements, and confidential settlement details in other civil lawsuits. RCI designated the deposition as “Confidential” pursuant to the Confidentiality Order previously entered in this case. [Dkt. No. 101.]
3. Plaintiff attached a transcript of Mr. Alatorre’s deposition to his response in opposition to RCI’s motion for summary judgment. [Dkt. No. 209, Ex. J.]
4. Plaintiff filed the transcript under seal.

5. Plaintiff has indicated that he will stipulate to the confidentiality of prior settlement information but will not stipulate to maintaining the confidentiality of the remainder of the deposition testimony.

6. Accordingly, RCI files this Motion to keep Mr. Alatorre's deposition transcript sealed in its entirety.

7. Although federal courts recognize a presumption of public access to judicial records, a court "can order documents sealed if the party moving for sealing is able to show some significant interest that outweighs the presumption in favor of open access to judicial records." *La Frontera Center, Inc. v. United Behavioral Health, Inc.*, 2023 WL 6443560, at \*2 (D.N.M. Oct. 3, 2023) (quoting *United States v. Pickard*, 733 F.3d 1297, 1300 (10<sup>th</sup> Cir. 2013)).

8. RCI has a strong interest in preserving the confidentiality of business information that, if revealed to competitors, would harm its competitive standing. *See Martinez v. Continental Tire the Americas, LLC*, 2023 WL 2914796, at \*2 (D.N.M. Apr. 12, 2023) (finding that a defendant's interest in maintaining the confidentiality of confidential business information heavily outweighs the public's interest in viewing a transcript of testimony revealing the confidential business information).

9. Similarly, RCI has a strong interest in maintaining the confidentiality of settlements in prior litigation. *See Friedland v. TIC-The Indus. Co.*, 566 F.3d 1203, 1205 n. 1-2, 1211 (10<sup>th</sup> Cir. 2009) (permitting sealed filings relating to confidential settlement agreements).

10. Further, Mr. Alatorre's deposition was narrowly tailored and consists almost entirely of such confidential information. Any portion of the transcript that does not contain confidential information is of little use without reference to the portions that do contain confidential information. Thus, the entire transcript should be kept under seal. *See Eugene S. v.*

*Horizon Blue Cross Blue Shield of New Jersey*, 663 F.3d 1124, 1136 (10<sup>th</sup> Cir. 2011) (determining that an entire appendix should be sealed where nearly every document contained confidential information and “any document that does not contain such information would be of little use without reference to documents which do contain such information”).

WHEREFORE, RCI respectfully requests that the Court maintain the confidentiality of Mr. Alatorre’s deposition and keep Exhibit J of Plaintiff’s response to RCI’s motion for summary judgment sealed.

Dated: May 1, 2024

Respectfully submitted,

/s/ Joseph C. Wylie II

Joseph C. Wylie II (*pro hac vice*)

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2024, I caused a true and correct copy of the foregoing Motion to Seal Deposition Transcript of Crystian Alatorre to be served upon counsel of record by e-mail.

/s/ Joseph C. Wylie II